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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,413	12/05/2003	Tom Tary	TAR50001	8386

7590 07/06/2007
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CANADA

EXAMINER

SAN MARTIN, EDGARDO

ART UNIT	PAPER NUMBER
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2837

MAIL DATE	DELIVERY MODE
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07/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No.		Applicant(s)	
	10/729,413		TARY ET AL.	
	Examiner		Art Unit	
	Edgardo San Martin		2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 19-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 19, 2007 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 – 9 and 19 – 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Hohn et al. (EP 1 094 207).

With respect to claim 1, Hohn et al. teach a muffler assembly being installed between the engine and an engine exhaust discharge point, the muffler assembly having an exhaust entry pipe, a generally permanent outer housing (Fig.2, Item 50) and a removable and replaceable internal core assembly which is inserted into and removed from the permanent outer housing (Figs.2, 3 and 5), the muffler assembly and

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the internal core assembly having guide and positioning elements to correctly position the internal core assembly within the outer housing, the removable and replaceable internal core assembly having an inlet entrance (Fig.2, Item 20) which connects directly to the exhaust entry pipe of the muffler assembly and an outlet pipe (Fig.2, Item 60) which outlet pipe connects directly to the exhaust entry pipe such that the engine exhaust of the vehicle moves directly from the exhaust entry pipe into the replaceable internal core assembly and thence into the outlet pipe, the engine exhaust expanding in an expansion chamber (Fig.2, Item 70) within the internal core assembly and between the exhaust entry pipe and the outlet pipe (Figs.2 – 8; paragraphs [0013] – [0038]).

With respect to claims 2 – 9, Hohn et al. teach the limitations described in the claims (Figs.2 – 8; paragraphs [0013] – [0038]).

With respect to claim 19, Hohn et al. teach a cartridge for insertion into a muffler casing (Figs.2, 3 and 5), the cartridge containing at least one exhaust acoustical treatment element (§ [0027]) and being sealed by a gas tight enclosure prior to installation in the muffler casing, the muffler casing having an engine exhaust inlet, the cartridge containing an entrance (Fig.2, Item 20) for the ingress of exhaust from an engine and an exitway (Fig.2, Item 60) for the egress of the exhaust following treatment of the exhaust within the cartridge, the entrance of the cartridge being operable to be connected directly to the engine exhaust inlet of the muffler casing and the exitway being connected directly to the entrance of the cartridge and allowing exit of the exhaust from the muffler casing (Figs.2 – 8; paragraphs [0013] – [0038]).

With respect to claims 20 – 24, Hohn et al. teach the limitations described in the claims (Figs.2 – 8; paragraphs [0013] – [0038]).

Response to Arguments

3. Applicant's arguments filed on June 19, 2007 have been fully considered but they are not persuasive. The Examiner considers that the patent to Hohn et al. teach the limitations described in the claims as discussed above. In response to applicant's argument that Hohn et al. is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Hohn et al. is directed to a silencer that allows retrofitting of internal parts of the silencer, in this manner facilitating the repairing or replacement of any damaged internal component of the silencer without the need of replacing the whole silencing. The Examiner considers that the patent to Hohn et al. is directly related to the claimed subject matter. Furthermore, the patent to Hohn et al. comprises each an every element described in the claims.

Contact Information

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edgardo San Martin whose telephone number is (571) 272-2074. The examiner can normally be reached on 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on (571) 272-2800 ext.37. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Edgardo San Martin/

Edgardo San Martín
Primary Examiner
Art Unit 2837
Class 181
June 22, 2007